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Applicants wish to bring to the attention of the Patent Office the reference listed on the attached PTO-1449 form and request that it be considered by the Examiner. Each item of information contained in the Information Disclosure Statement was cited by the Patent Office on copending application Serial No. 10/719,612 not more than three months prior to the filing of this Statement. A copy of the reference listed in the attached is enclosed herewith.

Response to Claim Objections

Claim 65 was objected to by the Examiner because of the following informalities: In line 3, "tisseu" should read as "tissue". to provide proper antecedent basis for Claims 18 and 19. Claim 65 has been amended to read "tissue".

Response to Claim Rejections Under 35 U.S.C. §102

Claims 17-23, 25, 27, 30, 32, and 48-58 were rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by Patterson et al. (U.S. Pat. No. 5,941,869). The Patterson reference discloses removing stenotic material from within a stent. The device used has a head with one or more arcuate members which is moved longitudinally or rotationally to cut tissue within the stent. While Patterson makes reference to electrical energy to assist in removing stenotic material, there is no reference to a cutting member energized with RF energy which forms a peripheral boundary around the tissue specimen as called for in the applicants claims. The present claims are directed to cutting a tissue specimen with a peripheral boundary and encapsulate the severed tissue specimen in its entirety. The Patterson reference does

not disclose all the features of the claimed invention, so it cannot anticipate the rejected claims.

Response to Claim Rejections Under 35 U.S.C. §103

Claims 24 and 59 were rejected by the Examiner under 35 U.S.C. §103(a) as unpatentable over Patterson et al. (U.S. Pat. No. 5,941,869) as applied to claims 23 and 57 above, and further in view of Kieturakis (U.S. Pat. No. 5,794,626). As discussed above the Patterson reference fails to disclose all of the features of the present invention and Kieturakis fails to make up for the deficiencies of Patterson. The combination of references do not teach the features of the claims.

Because claims 24 and 59 are dependent upon independent claims which are believed to be patentable, as discussed above, dependent claims 24 and 59 should also be patentable.

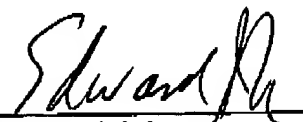
Response to Allowable Subject Matter

Applicant notes with appreciation the Examiner's indication that Claims 28 and 33 are directed to allowable subject matter. However, applicants believe that the claims from which claims 28 and 33 depend are in condition for allowance, therefore there is not reason for these claims to be rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusions

Applicants believe that the pending claims are directed to patentable subject matter. Further consideration pursuant to the concurrently filed RCE and an early allowance of these claims are earnestly solicited.

Respectfully submitted,

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